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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/070,489	09/17/2002	Travis Robert Glare	24747-1104US	6955				
35489	7590 02/11/2005		EXAM	INER				
	HRMAN WHITE & MCA	KUBELIK	KUBELIK, ANNE R					
	EFIELD ROAD RK, CO 94025-3506		ART UNIT	PAPER NUMBER				
	,		1638	1638				
			DATE MAILED: 02/11/2009	5				

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Commons	10/070,489	GLARE ET AL.
Office Action Summary	Examiner	Art Unit
	Anne R. Kubelik	1638
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the c	orrespondence address
A SHORTENED STATUTORY PERIOD FOR REPL' THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1: after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be tin y within the statutory minimum of thirty (30) day vill apply and will expire SIX (6) MONTHS from , cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).
Status		
1)⊠ Responsive to communication(s) filed on <u>15 N</u>	ovember 2004.	
2a) ☐ This action is FINAL . 2b) ☑ This	action is non-final.	
3) Since this application is in condition for allowar	nce except for formal matters, pro	secution as to the merits is
closed in accordance with the practice under E	Ex parte Quayle, 1935 C.D. 11, 45	53 O.G. 213.
Disposition of Claims		
4) Claim(s) 1-48 is/are pending in the application		
4a) Of the above claim(s) 15,17-40 and 44-48 is	s/are withdrawn from considerati	on.
5) Claim(s) is/are allowed.		
6)⊠ Claim(s) <u>1-14,16 and 41-43</u> is/are rejected.		
7) Claim(s) is/are objected to.		
8) Claim(s) are subject to restriction and/o	r election requirement.	
Application Papers		
9)⊠ The specification is objected to by the Examine	er.	
10)⊠ The drawing(s) filed on <u>17 September 2002</u> is/s	are: a)⊠ accepted or b)⊡ objec	ted to by the Examiner.
Applicant may not request that any objection to the	drawing(s) be held in abeyance. See	e 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correct	<u> </u>	
11) The oath or declaration is objected to by the Ex	caminer. Note the attached Office	Action or form PTO-152.
Priority under 35 U.S.C. § 119		
12)⊠ Acknowledgment is made of a claim for foreign a)⊠ All b)□ Some * c)□ None of:	priority under 35 U.S.C. § 119(a))-(d) or (f).
 Certified copies of the priority document 	s have been received.	
2. Certified copies of the priority document		
3. Copies of the certified copies of the prio	•	ed in this National Stage
application from the International Burea		
* See the attached detailed Office action for a list	or the certified copies not receive	su.
Add a bos and a		
Attachment(s) 1) X Notice of References Cited (PTO-892)	4) 🔲 Interview Summary	(PTO-413)
 Notice of References Cited (PTO-992) Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	Paper No(s)/Mail D	ate Patent Application (PTO-152)
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DETAILED ACTION

1. Applicant's election with traverse of Group I (claims 1-14, 16 and 41-43) in the reply filed on 15 November 2004 is acknowledged.

The traversal is on the grounds that the restriction between groups I and IV should be withdrawn because the probes and primers of group IV are fragments of the nucleic acid of group I and because all group members are also nucleic acids; thus, groups I and IV share the same technical feature and form a single inventive concept (response pg 2). This is not found persuasive because the nucleic acids of groups I and IV have different nucleotide sequences and would be different products. Lack of unity practice limits examination to one product, one method of making the product and one method of using the product.

Applicant urges that that the restriction between groups II and III should be withdrawn because both are drawn to proteins, as the ligand of group III may be a protein; thus, groups II and III share the same technical feature and form a single inventive concept (response pg 2). This is not found persuasive because the ligand could be something other than a protein; thus, groups II and III would not share the same technical feature of being proteins. Furthermore, the protein of group II and any protein ligand that binds to it would have different amino acid sequences and would be different products. Lack of unity practice limits examination to one product, one method of making the product and one method of using the product.

Applicant urges that that none of the references cited in the restriction teach or disclose SEQ ID NO:1 (response pg 2-3). This is not found persuasive because the claims appear to be drawn to any nucleic acid with 75% or 50% homology to SEQ ID NO:1 or any fragment thereof (see objections and rejections below). The cited references teach such nucleic acids.

The requirement is still deemed proper and is therefore made FINAL.

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Claims 15, 17-40 and 44-48 are withdrawn from consideration as being drawn to nonelected inventions.

2. This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825.

Sequence identifiers are missing from the Brief Descriptions of Figures 4 and 5 and from pg 22, line 12, and pg 29, line 9.

Full compliance with the sequence rules is required in response to this Office action. A complete response to this Office action must include both compliance with the sequence rules and a response to the issues set forth herein. Failure to fully comply with both of these requirements in the time period set forth in this Office action will be held to be non-responsive.

3. The specification is objected to because there appears to be two Brief Descriptions of the Figures, one on pg 16-17 and the other on pg 17-19.

Claim Objections

4. Claims 2-4 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. It is unclear in claim 1 what is intended to be claimed, a nucleic acid of SEQ ID NO:1 or a nucleic acid encoding an insecticidal complex or a fragment or homolog thereof, or a nucleic acid with 75% homology to SEQ ID NO:1. If what is intended is a nucleic acid of SEQ ID NO:1, then claims 2-4 are improperly dependent upon claim 1. A properly dependent claim includes all of the limitations of the parent claim(s), as well as a

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further limitation. As SEQ ID NO:1 already comprises bases 1995-18937, 2411-9547, 9589-13883 and 14546-17467 of itself, the claim does not further limit the parent claim. If the intent is to claim a nucleic acid comprising only bases 1995-18937, 2411-9547, 9589-13883 or 14546-17467 of SEQ ID NO:1, then claims 2-4 are improperly dependent for failing to include all of the limitations of the parent claim.

- Claim 10 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In addition to claim 1 being unclear, it is unclear in claim 10 what is intended to be claimed, a nucleic acid encoding an insecticidal complex or a fragment or homolog thereof and capable of hybridizing to the nucleic acid of claim 1, some other nucleic acid that hybridizes to that of SEQ ID NO:1, or a nucleic acid with 50% identity to the listed fragments of SEQ ID NO:1. A claim to a nucleic acid with a nucleic acid with 50% identity to the listed fragments of SEQ ID NO:1 is broader that a claim to a nucleic acid of SEQ ID NO:1 or a nucleic acid with 75% homology to SEQ ID NO:1.
- 6. Claims 14, 16 and 41 are objected to because of the following informalities:

 In claim 14, there should be no comma after "including" in line 2, and there should be an "and" before pLAFR3 in line 4.

In claim 16, line 1, there is an improper article before "polypeptide".

In claim 41, line 2, there is an improper article before "nucleic".

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Neither the instant specification nor the originally filed claims appear to provide support for the phrase "The purified and isolated nucleic acid of claim 1... *luminescens* toxins". The closest support is on pg 4, lines 1-8, in which the nucleic acid is operably linked to an additional nucleotide sequence, wherein that additional nucleotide sequence encodes the toxins. However, there is no support for SEQ ID NO:1, or any of its parts, being any of the listed toxins, as the current claims appear to state. Thus, such a phrase constitutes NEW MATTER. In response to this rejection, Applicant is required to point to support for the phrase or to cancel the new matter.

9. Claims 1, 9-14, 16 and 41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claims are broadly drawn to a multitude of nucleic acids that have 75% or 50% homology to SEQ ID NO:1. In contrast, the specification only describes a coding sequence from *Serratia entomophila* that comprises SEQ ID NO:1. Applicant does not describe other nucleic acids encompassed by the claims, and the structural and functional features that distinguish all such nucleic acids from other nucleic acids are not provided.

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Hence, Applicant has not, in fact, described nucleic acids that have 75% or 50% homology to SEQ ID NO:1 within the full scope of the claims, and the specification fails to provide an adequate written description of the claimed invention.

Therefore, given the lack of written description in the specification with regard to the structural and functional characteristics of the claimed compositions, it is not clear that Applicant was in possession of the claimed genus at the time this application was filed.

See *Univ. of California v. Eli Lilly*, 119 F.3d 1559, 43 USPQ 2d 1398 (Fed. Cir. 1997) at pg 1406:

... A description of a genus of cDNAs may be achieved by means of a recitation of a representative number of cDNAs, defined by nucleotide sequence, falling within the scope of the genus or of a recitation of structural features common to the members of the genus, which features constitute a substantial portion of the genus.

... the claimed genera of vertebrate and mammal cDNA are not described by the general language of the '525 patent's written description supported only by the specific nucleotide sequence of rat insulin.

Claims 1, 9-14, 16 and 41 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a nucleic acid of SEQ ID NO:1, and a method of expressing SEQ ID NOs:2-4 in *E.coli*, does not reasonably provide enablement for nucleic acids that have 75% or 50% homology to SEQ ID NO:1, a recombinant expression vector comprising the nucleic acid, a method of producing the protein encoding by the nucleic acid and a plant, bacterium, virus or fungus transformed with the nucleic acid. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims.

The claims are broadly drawn to a nucleic acid that has 75% or 50% homology to SEQ ID NO:1, a recombinant expression vector comprising the nucleic acid, a method of producing the protein encoding by the nucleic acid and a plant, bacterium, virus or fungus transformed with the nucleic acid.

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The instant specification, however, only provides guidance for determination that a 16.9 kb portion of pADAP has the ability to cause disease in *Costelytra zealandica* larvae (pg 23-25); sequencing of an almost 19 kb portion, SEQ ID NO:1, of pADAP to show that it has 9 ORFS, 3 of which, SEQ ID NOs: 2-4, have homology to protein components of insecticidal toxins of *Photorhabadus luminescents* (pg 26-29); expression of SEQ ID NOs:2-4in E. coli and demonstration that they are active against grass grub but not other scarabs (pg 36-38).

The instant specification fails to provide guidance for a nucleic acid that has 75% or 50% homology to SEQ ID NO:1, a recombinant expression vector comprising the nucleic acid, a method of producing the protein encoding by the nucleic acid and a plant, bacterium, virus or fungus transformed with the nucleic acid.

The instant specification fails to provide guidance for exact hybridization or amplification conditions and probes/primers to use to isolate insecticidal protein-encoding nucleic acids that hybridize to SEQ ID NO:1, nor does it teach where to find such nucleic acids.

The instant specification fails to teach how to make insecticidal protein-encoding nucleic acids with 75% or 50% homology to SEQ ID NO:1.

Making substitutions in proteins does not produce predictable results. Lazar et al (1988, Mol. Cell. Biol. 8:1247-1252) showed that the "conservative" substitution of glutamic acid for aspartic acid at position 47 reduced biological function of transforming growth factor alpha while "nonconservative" substitutions with alanine or asparagine had no effect (abstract). Similarly, Hill et al (1998, Biochem. Biophys. Res. Comm. 244:573-577) teach that when three histidines that are maintained in ADP-glucose pyrophosphorylase across several species are substituted with the "nonconservative" amino acid glutamine, there is little effect on enzyme activity, while the substitution of one of those histidines with the "conservative" amino acid

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arginine drastically reduced enzyme activity (see Table 1). All these mutated proteins, however,

would have at least 95% identity to the original protein. The nucleic acids encoding all these

mutated proteins, however, would hybridize under high stringency to the nucleic acids encoding

the original protein.

acid in the protein.

Given the claim breath, unpredictability, and lack of guidance as discussed above, undue experimentation would have been required by one skilled in the art to develop and evaluate nucleic acids encoding with 75% or 50% identity to SEQ ID NO:1. The insecticidal proteins iencoded by SEQ ID NOs:2-4 are in total 4776 amino acids long. Making all possible single amino acid substitutions in an 4776 amino acid long protein would require making and analyzing 19⁴⁷⁷⁶ nucleic acids; these proteins would have 99% identity to any one of SEQ ID NO:1, would have 4734 or 9468 substitutions, respectively; that is they could have substitutions in every amino

The instant specification fails to provide guidance for which amino acids of SEQ ID NOs:2-4 can be altered and to which other amino acids, and which amino acids must not be changed, to maintain insecticidal activity of the encoded proteins. The specification also fails to provide guidance for which amino acids can be deleted and which regions of the protein can tolerate insertions and still produce a functional enzyme.

Guo et al (2004, Proc. Natl. Acad. Sci. USA 101: 9205-9210) teach that while proteins are fairly tolerant to mutations resulting in single amino acid changes, increasing the number of substitutions additively increases the probability that the protein will be inactivated (pg 9209, right column, paragraph 2). Thus, making and analyzing proteins with any number of amino acid substitutions that also have insecticidal activity would require undue experimentation.

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As the specification does not describe the transformation of any plant with a nucleic acid that has 75% or 50% homology to SEQ ID NO:1, undue trial and error experimentation would be required to screen through the myriad of nucleic acids encompassed by the claims and plants transformed therewith, to identify those with resistance to *Costelytra zealandica* larvae, if such plants are even obtainable.

The claims are also drawn to nucleic acids that encode only one of SEQ ID NOs:2-4. The specification teaches that mutations in the coding regions for any one of SEQ ID NOs:2-4 eliminate the disease causing ability of all of SEQ ID NO:1 (pg 25, lines 11-14; Fig. 2c). Thus, none of SEQ ID NO:2-4 alone are sufficient to provide resistance to *Costelytra zealandica* larvae, and a plant transformed with a nucleic acid encoding only one or two would not be resistant. Additionally, nucleic acids encoding only SEQ ID NO:2 (SepA) could not be expressed in bacteria (Hurst et al, 2000, J. Bacteriol. 182:5127-5138; see paragraph spanning pg 5133-5134 and that spanning the columns on pg 5134). Furthermore, the specification does not teach how a use a nucleic acid encoding only one of SEQ ID NOs:2-4.

Given the claim breath, unpredictability in the art, undue experimentation, and lack of guidance in the specification as discussed above, the instant invention is not enabled throughout the full scope of the claims.

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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12. Claims 1-14, 16 and 41-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Dependent claims are included in all rejections.

Claim 1 is indefinite in its recitation of "nucleotide sequence of SEQ ID NO:1" followed by "that encodes at least one of ... hybridization conditions". It is unclear which is intended to be claimed, a nucleic acid of SEQ ID NO:1 or a nucleic acid encoding an insecticidal complex or a fragment or homolog thereof, or a nucleic acid with 75% homology to SEQ ID NO:1. For purposes of examination, the claim was interpreted to read on all possibilities.

Claims 8 and 42-43 lack antecedent basis for the limitation "the *Bacillus* ... *luminescens* toxins".

Claim 9 is indefinite in its recitation of "wherein the nucleic acid may comprise DNA, cDNA or RNA." It is unclear what else the nucleic acid could be other than DNA, cDNA or RNA.

Claim 10 is indefinite as words appear to be missing between "molecules" and "said", and between "thereof" and "capable" in line 2.

Claim 10 lacks antecedent basis for the limitation "the nucleic acid molecules" in line 2.

Claim 10 is indefinite in its recitation of "nucleic acid molecule as claimed in claim 1" followed by "wherein ... between the sequences". It is unclear which is intended to be claimed, a nucleic acid encoding an insecticidal complex or a fragment or homolog thereof and capable of hybridizing to the nucleic acid of claim 1, some other nucleic acid that hybridizes to that of SEQ ID NO:1, or a nucleic acid with 50% identity to the listed fragments of SEQ ID NO:1. For purposes of examination, the claim was interpreted to read on all possibilities.

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A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in Ex parte Wu, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of Ex parte Steigewald, 131 USPQ 74 (Bd. App. 1961); Ex parte Hall, 83 USPQ 38 (Bd. App. 1948); and Ex parte Hasche, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 10 recites the broad recitation 50% identity, and the claim also recites "preferably, 60%, more preferably 70% and most preferably 90-95% or greater identity" which is the narrower statement of the range/limitation.

Claim 14 recites the broad recitation "any suitable natural or artificial plasmid/vector", and the claim also recites "including, pUC 19 ... pLAFR3" which is the narrower statement of the range/limitation.

Claim 12 lacks antecedent basis for the limitation "The recombinant expression vector(s)" in line 1.

Claim 12 is indefinite in its claiming vectors and hosts. Claims should be drawn to only one product. If someone used only one, would be claim be infringed?

Claim 14 is indefinite in its recitation of references within the claim.

Claim 16 lacks antecedent basis for the limitation "said vector as defined above".

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Claim Rejections - 35 USC § 102

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13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 14. Claims 1, 9-10, 12-14, 16 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Kramer et al (US Patent 6,281,413, filed February 1998).

Kramer et al teach an isolated DNA encoding an insecticidal complex and with 54.0% identity to SEQ ID NO:1 (see search results). Kramer et al also teach recombinant expression vectors comprising the nucleic acid and plants transformed with it (claims 12 and 15-16) and a method of expressing the proteins encoded by the nucleic acid, wherein the method comprises transforming a host cells with a vector encoding the nucleic acid and recovering the protein (column 14, lines 29-61; column 19, lines 29-32; column 26, lines 20-53). The vectors are selected from any suitable natural or artificial plasmids or vectors.

15. Claims 1, 9-10 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Jarrett et al (WO 98/08388).

Jarrett et al teach an isolated DNA encoding an insecticidal complex and with 53.1% identity to SEQ ID NO:1 (see search results). Jarrett et al also teach recombinant expression

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vectors comprising the nucleic acid (claims 24-26). The vectors are selected from any suitable natural or artificial plasmids or vectors.

16. Claims 1-4, 7 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Grkovic et al (1995, Appl. Environ. Microbiol. 61:2218-2223) taken with the evidence of the instant application.

Grkovic et al teach an isolated DNA, pADAP, from *Serratia entomophila* (Table 1). The instant specification teaches pADAP comprises SEQ ID NO:1 (pg 23-26 and Table 1). pADAP comprises bases 2411-9547, 9598-13884 or bases 14546-17476 of SEQ ID NO:1 operatively linked to additional nucleotide sequences that encode insecticidal proteins, that is the other insecticidal proteins encoded by SEQ ID NO:1.

17. Claims 5-6, 8 and 42-43 are free of the prior art, to the extent they read on a nucleic acid of SEQ ID NO:1 or bases 1995-18937 of SEQ ID NO:1 further comprising another sequence that encodes an insecticidal protein or bases 2411-9547, 9598-13884 or bases 14546-17476 of SEQ ID NO:1 operatively linked to nucleotide sequences that encode the insecticidal proteins listed in claim 8 (keeping in mind the objections and 35 USC 112, 2nd rejections above), given the failure of the prior art to teach or suggest an isolated nucleic acid of SEQ ID NO:1 or bases 1995-18937 of SEQ ID NO:1 further comprising another sequence that encodes an insecticidal protein.

Conclusion

- 18. No claim is allowed.
- 19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne R. Kubelik, whose telephone number is (571) 272-0801. The examiner can normally be reached Monday through Friday, 8:30 am 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached at (571) 272-0804. The central fax number for official correspondence is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

Amul Mar

Anne R. Kubelik, Ph.D. February 2, 2005

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Orally active insecticidal composition, used for protection of crops or
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                                                                                              ACGGATGCCGAGAAGATCTCAATCTGGCTGGCCAGTGTGTCATTACGATACCGCC 15055
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Pieris rapae; Plutella xylostella; Lepidoptera; Diptera; animal; ss.
                                                                                                                                                                                                                                                16136 GCAAATGGCGTGACGGAAAAAAAAAAGCCTGCAGGTTATTACGGTGGGCGAGGCTGGGCGG
                                                                                                                                                                                                                                                                                                                                                                                                  96237 GCACAGGTGCGGGTGCTGCACTGGGAGGCGGTAAACCAGAAGGTATCAACAACAATCAG
                                                 16016 GAAAGCTATCGGTATGATGCGGCAGTCAGCGTATTATCAAAACCGGCACGCGGCAAACT
                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     Cloned toxin gene sequence from Xenorhabdus strain NCIMB 40887.
96459 TCACGAGGAGAGTTAAAGCAGGTCAATAACGGTTCAGGAAAT--
                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              16556 ACGCTGTTTGACAGCAACGG 16575
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animals - contains pesticidal material from Xenorhabdus species optionally synergised with Bacillus thuringiensis toxin.

2; Fig 2; 46pp; English

This is a toxin gene sequence cloned from a Xenorhabdus strain NCIMB

40887. This has insecticidal activity and can be used in an insecticidal

composition for oral delivery to an insect. The composition includes

material encoded by Xenorhabdus strains NCIMB 40887,

particularly it contains Xenorhabdus cells or culture supernatant. It may

also include active materials from other sources, especially Bacillus

thuringiensis or delta-endotoxins, and is formulated with a carrier,

especially an edible material for the pest. Pesticidal agents isolated

from Xenorhabdus species, especially X. nematophilus have oral activity

against Pieris brassicae or rapae, Plutella xylostella and are heat
stable at 55 deg. C. They are resistant to proteolysis by trypain and

proteinse K. and are inactivated by sodium dodecylenlphate or acecone,

and by heating to 80 deg. C. The compositions are used to kill Diptera

and Lepidoptera, particularly P. brassicae or rapae, P. xylostella and

culture dinquefactatus, e.g. for crop or animal protection, also for

vector control. The isolated pesticidal agent may be expressed in

transformed plants to impart protection. Xenorhabdus materials show

synergistic effects when formulated with Bacillus thuringiensis toxins

Sequence 38258 BP; 10486 A; 8248 C; 8871 G; 10630 T; 0 U; 23 Other;

*Match 8.8%; Score 1658.8; DB 2; Length 38258; Local Similarity 53.1%; Pred. No. 0; les 4978; Conservative 0; Mismatches 3802; Indels 598; Best Local Simi Matches 4978; Query Match

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11870 11931 GCGGCAGGTCAGTCTCTGGCCGGGCAGGCGCTCTCAGTAGCAGAAGGGGTGGCTGACTTA 11990 .2231 CAGATGCAGGTGGAATATCAGGAGACCCAGCAGGCCCATACTCAGGCTCAGTTAGAGCTG 12290 11513 TTATCGCTGGCGAATTACGCGAGCC--TACGATCCGAAAGCGCTGCTCCTACTATGGTA 11570 ATGGAACTGGCGACACAGAGCATCCGTATTCAGCAACGAACTGTGTGATGAAGTGGATGCT 11811 GATATTGCTGTATTGGCAGAGAGCCGCCGCAGTGCACAAAATCGTCTGGAAAAATACCAG 11871 caderigrardadedadedarareadedadedadededededarenerigitarganged CAGTCGGAAGTGTACCGCCGTCGCCGGGAGGAGTGGGAAATCCAGCGTGATAGTGCGCAG TTACAGCGTAAATTCACAAACAAAGCGCTTTACAGTTGGATGCGCGGCAAGCTGAGTGCT Archarnaccaerrerrigacergaceragicerrergecergargecacaggaageerg AGTGAACTGATACGCCAGGGCCTTCGCCAGCAGGATAACGTCCTCGAGGAAATCGATGCG GATATTGCCGCCCTGGAGGAGGCCGCCGCGCGCGCAGATGCGTTTTGAACGTTACAAA GTGTTGTACGAGGCGGACGTCAACACCGGCGAAAAACAGGCCATGGACTTGTACCTCAGT cerricedaadecracedececececercaedaereceaarreaecercararaceereae 12171 GGTGAAGTCAAACAAATGGATGCCCAGCTGGAAAGCCTGAAAATACGCGGCGAAGCAGCA CAGTGGGATAAATTCGAGA - - - CTAGGTCGTTTATCCAGCCGGGGGCCCTGGATGGGGGCA ceccéccadecreaccades respectation de la constance de la constan TGGCTGACGGGGATGAGCGGGCAATAGAGGTGACGCGGACGGTCTGCCTGTCGGAGGTC caecerrercadedeceradederecrecedecaerarierestraraceerrece GTCATGCTGGAGAACGCCCCGGGGGATGGTGAGCCTGCTGACCGGGTTCGGCAACACACTG CTCGGTATTACCGAGCGTCAGGATGCGGAGGCGCTGGCCAAACTGCTGCAGGGC 11691 crcadrargecagadeargargargeccarcarcaccaccrrecracracageager TCGTCCGTGCTGTCGGCATCAACCGCCGCGCTCTTTTTGGCCGAGGCCGCGGCCGATATG 8441 CTGCCCAATATTTACGGGCTGGCCGTCGGGGGCTCCCGCTATGGGGGCACTATTTAAAGCC 11991 Girccanacergirccerriccerrorgecesconcerrecescesconcacacroscons ACCECCATCECCATCCAGGTGTCCTCCGATGCCACCCGCATATCAGCGGACAAATCAGC TCTGACGTGGCGCAGATTGATGCCCCAGCTGGCGCCCATGGCAGTGCGCCGGGAAGGGGGCT GAGCTGCAGAAAACTTACCTTGAGACCCAGCAGACCCAGGCACACGCGCAGTTGGCATTC CTGCAGAGTAAGTTCAACAATACGGCTCTGTACAGCTGCGGGGGGGCAGGTTGTCCGCC **ATTTATTACCAGTTCTATGACCTGGCAGTATCCCGCTGCCTGATGGCGCAACAGGCCTGG** AATGCCGGTCTGCTGGCCGGGGAAACCCTGATGCTGAATCTGGCGCAGATGGAGCAGGCC AACAGCGCGCAGGGTGCTGCAGCACTGCCGGCCGCGGTGATGCCGCTTTACAGTTTCCCG 12111 8621 8741 12411 8978 8141 8261 8561 8681 8801 11751 8381 8501 2051 12291 12351 8861 12531 8201 1961 11571 8081 11631 ద 요 셤 ò 셤 õ g ద ઠે g ð 셤 ò a ò 셤 ò a ò g ò a ò a ò 셤 ò a à ò 셤 ò õ ò

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CACGCATACCGGGGAACATATTTACTATCACTATCGGG 13785 rdagcardaactrdcrcadcatrcaggrdrracgdccc 13845 A---GCTGGCTGTTTATCCTGGTGTTTGATTATGGTG 10408 10291 TATGGTAACCGTCAGGCGGCTCGGACGCTACCGGCGC 10351 TATGGCAATACTCAGCCGGAAACCGCTTTTTTCGCGG 13904 ------TGTCTGAAGCGCCGGCCTGGC 10444 CTTGTGTCGCCAAGTTCTGATGTTTCATCAGCTGAAAG 14144 MATGATGCGCCAGCATTGATTTCTCGCCTGTTGCTGG 10624 PAGTCTGCTCGAGAACGTGCACGTGGCTTATGAGT 10684 scceccacigecarigeegreecaaaccirraccccec 10744 CGAAGGTGTGGTGGGTATC-CTGTATCAGGAC---GC 10860 GTACCCGAATTCAATGTGTCAGAAACAATGTGTCTG 14024 CTGTGTCGTCAGGATTGTTTTCCGGGTATGAGTTTG 10504 CTGTGCCGTCAGGTTTTGATGTTCCATTACCTAGGTG 10564 rccriecigcaacecececaerieeceardaa 14264 srccccccidaaarddarrarcaacgrerrarcarg 14324 CGTGACGATATGGGCAAGTTGAGTTTGCTTCAACCCT 10804 ATGCCGCAGTTAGAAAAATGAACACGTTGCAGCCAT 14384 GGTACGCCA---GTCGGGGATGATCCGGATGCTGTG 10917 GCCGACAATGCCCGCTTTGCATAACAGCGGCATCCTG 10977 ACTIGGAGTGGGTCGTTACCGCCCCCGGTGTGGCGGGG 11037 CGACTGGTTGCATTTCACCCCCTGTCAGCCTTGCCC 11097 AGTGCTCGCCGATATCCTGGGGCTGGGTTAACGGAC 11157 haaactedergaratrearegeeregeerecergae 14744 STGTTCGCCTCTATTCCGGCAAAAGCGATGGTTGGAAT 11217 ca e de cece con cece ca con esce con e **ATCACTTACCGGCGAACAGATGTATTACCAATACCGTG**

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17628 14493 17686 14553 17763 14613 17763 14673 14732 14732 14733 14886 18003 18003 18003 18111 18111 1821 1821 18231 15126 18231 15126 18231 15126 18331 15126	18411 ATGCTGCCGGAAACAAGCAACGTATCGCCTATGATGTGGCCGG 15306 GGTTGACGCTGAAGGACCGCGCGCGCGCGCGCCCCCCCCC
1335 AGCACAGTOTCTGCATTATATCACGGACAGTTGGGACTATAGACCC 1598 1592 GANTGATGTCTGCATTGAAACCGGATACCTGTGCAGGCTGGTTTATGCCC 1598 1413 TCCCCAACTGCTGCATTGAAACCGGATACCTGTGCAGGCTGATTATGCCC 1598 1419 CCCCCAACTGCTGCTGCATTGAACCGGTTTTATGGAGGCTGATTATGCCC 1512 1598 TCTGAGTGGGATGGTTCAGGCCACTTTTCTAATGGGGGCTGATCGAGGCCGA 1704 1599 TCTGAGTGGGATGTTCAGGCCACTTTTCTAATGGGGGCAACCCGCAAGCCCC 1512 1591 CCCCCAACGTGGATCATTACAGGATTTTTCAATGGGGAACCTGAACCGCAACTTGAAA 1714 1504 ACCCGGTGGGATCATTACAGGACTTTTCAACTGGTGATTTTTCACACAGCAACTTGAAA 1714 1507 ACCCGGTGGGATCATCACAGAACTACTCTGTGTTTTTCGCCAATTTCACACAGCACTCAAA 1714 1507 ACCCGGTGGGATCATCACAGAACTACTCTGTGTTTTTCGCCATTACACACTCACACACTCACACACTCACACACTCACACACTCACACACTCACACACTCACACACTCACACACTCACACACTCACACACTCACACACTCACACACTCACACACTCACACACTCACACACACACTCA	17486 GCCGGCAGGATATGTATGTATCTATGATCGTTGGGGCGTGAATATCAG 17545 14253 GTTACCACCCTCCAGCGGCAACTTGCCAGTTACTATGATCCGTTGGGGCGTGAATATCAG 17545 14253 GTTACCACCCTCCAGCGGAACTTGCCAGTTGATTCACTCCCTGGTT

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This is a toxin gene sequence cloned from a Xenorhabdus strain NCIMB 10897. This has insecticidal activity and can be used in an insecticidal composition for oral delivery to an insect. The composition includes composition for oral delivery to an insect. The composition includes particularly it contains Xenorhabdus strains NCIMB 40886 and 40887, also include active materials from other sources, especially Bacillus contringiensis or delta-endotoxins, and is formulated with a carrier, especially an edible material for the pest. Pesticidal agents isolated cagainst Pieris brassicae or rapae, Plutella xylostella and are heat-composition and set heat-compositions are used to kill Diptera proteinase K, and are inactivated by sodium dodecylsulphate or acetone, and by heating to 80 deg. C. The compositions are used to kill Diptera cultar quinquefaciatus, e.g. for crop or animal protection, also for vector control. The isolated pesticidal agent may be expressed in transformed plants to impart protection. Xenorhabdus materials show control. The isolated with Bacillus thuringlensis toxins
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                                                                                                                                                                         Xenorhabdus; toxin; insecticidal; protection; Pieris brassicae; crop;
Pieris rapae; Plutella xylostella; Lepidoptera; Diptera; animal; ss.
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                                                                                                                                         Cloned toxin gene sequence from Xenorhabdus strain NCIMB 40887.
                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                Orally active insecticidal composition, used for protection of canimals - contains pesticidal material from Xenorhabdus species optionally synergised with Bacillus thuringiensis toxin.
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Pred. No. 1.1e-288;
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                                                                                                                                                                                                                                                                   WO9808388-A1.
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Sequence 3, Appli
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Compugen Ltd
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US-09-817-514A-3

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US-08-851-567B-46

US-09-817-514A-1

US-09-817-048C-1

US-09-817-048C-3

US-09-637-048C-3

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                                                                                                                 January 26, 2005, 06:14:03 ;
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APPLICANT: Kramer, Vance C.
APPLICANT: Morgan, Michael K.
APPLICANT: Moderson, Arne R.
APPLICANT: Hart, Hope
APPLICANT: Hart, Hope
APPLICANT: Warren, Gregory W.
APPLICANT: Warren, Gregory W.
APPLICANT: Warren, Gregory W.
APPLICANT: Chen, Jeng S.
TITLE OF INVENTION: NOVEL INSECTICIDAL TOXINS FROM PHOTORHABDUS LUMINESCENS
TITLE OF INVENTION: AND NUCLEIC ACID SEQUENCES CODING THEREFOR
FILE REFERENCE: CGC1963/A
CURRENT APPLICATION NUMBER: US/09/251,645
CURRENT APPLICATION NUMBER: 1999-02-17
NUMBER OF SEQ ID NOS: 22
SOFTWARE: Patentin Ver. 2.0
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                        US-09-543-681A-3481

US-08-938-416-595

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US-08-67-088-22

US-09-806-7088-22

US-09-806-7088-22

US-10-204-708-63

US-09-679-279-1

US-09-679-279-1

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Patent No. 6281413
GENERAL INFORMATION:
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NAME/KEY: CDS
LOCATION: (23768)..(31336)
OTHER INFORMATION: hph2
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OTHER INFORMATION: orf2
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Best Local Similarity 54.0
Matches 6358; Conservative
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LOCATION: (15171)..(18035)
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8656 CATCGCAGTGCGCCGGGAAGGGGCTGAGCTGCAGAAAACTTACCTTGAGACCCAGCAGAGAGCGAGAGAGCGCCAAAACCAAAAACCAAAAAA	CCAGGCACAGGCGCAGTTGGCATTCCTGCAGAGTAAGTTCAACAATACGGGTCTGGTACAG	8776 CTGGCTGCGGGGGGGTTGTCCGCCATTTATTACCAGTTCTATGACCTGGCAGTATCCG 8835	8836 CTGCCTGATGGCGCAGCCTGGCAGTGGGATAAATTCCAGACTAGGTCGTTTAT 8892		8953 GAATCTGGCGCAGATGGAGCAGGCCTGGCTGACGGGGATGAGCGGGCAATAGAGGTGAC 9012 	9013 GCGGACGGTCTGCCTGTCGGAGGTCTATACCAGCCTCGCGGAGGATGCGGCATTCTCTCT 9072 9345 ACGTACCGTTTCGCTGGCCGAAGTCTATGCCAATTACCGCAAGATAAATTATCCT 9401	9073 GGCCGACAAGGTGGTGGAACTGGTCAGTAACGGTTCGGGCAGTGCGGGTACGAAAGCCA 9132 	9133 CGGATTACAGATGGATCAACAGCAACTCGAGGCCACCCTGAAACTGGCTGA 9183	9184 CCTCGGTATCGGCAACGATTACCCGGTCTCCCTTGGCACCATGAGGCGCATCAAACAAA	9244 AAGGGTCACGCGCGCGCTCGGCCCCTATCAGGACGTCCGTGCGGTTCTCAGCTA 9303 	9304 CGGCGGAAGTATGGTCATGCCCCGGGGTTGCAGCGCGCTGGCGGTTCTCACACGGAAT 9360	9361 GAACGACGGCCAATTCCAACTGGATTTCAATGACCGGGTTACTGCCGTTTGAAGG 9420 	9421 ACTTCCAGTTGATGACACAGGGACCCTGACCTTCCCGGATGC 9468 	9469FGACGCAAACAGCGATGCTCCTCAGTCTGAGCGACATCAT 9513	9514 CCTGCATATCGCTACACCATTATCAGCTGATAGGTATCAACATAGCGCAGGCCCC 9569	9570 CGAACGACGCCTGCGAGGAGTCAGCATACAAAATCATCAAGACATGGCCATTACTGC 9629	9630 CCCCACGTTGCCTTCCGGGGGGGGGGGCGCTCAAGGGTGATATCGCGGGGGC 9689	9690 AGGGCCGGAIGGTGCGGCGACCCTGAGTATTCCCTTGCCGGTTAGCCCCCGGTCGGGGTTA 9749
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10018 GAGGETAGTCTCAGCCGCCTTGAGCGTTGGCTGCCCGCCGACGAGACAGAAACGGAATTT 10077
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                                                                                             Gaps
                                                         Length 4431;
                                                                                           225;
                                                    Score 1108.8; DB 4; Length
Pred. No. 3.6e-298;
0; Mismatches 1732; Indels
                                                     5.9%;
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; LOCATION: (1)..(4431)
US-09-817-514A-3
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                                                                                                                                                                                                                                                ATACACGCGGTGAACTACAACATGTGACATTGGTGAAAAGGGGACAAGGCCCAATGATG
                                                                                                                                                                           TAACACAAAACAGCACGATCACAACGAAGATTIGCAAGTIATCACAGTAGGAGAAAGCGG
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           TGCTGTTCAGTGCAGAGGTCACCAGAAGCACCTGCAGCCGGGGCAAGCACTGGTGTGAA
                                          16498 CTTTATTTGATGCAGGCGACATCAGAACACGTTGATATCAGGACAAAACCTGGA
                                                                                                                                                                                                                           AAACTGGCAACAACGTTCAGACACAGCGGGTAGTGTACCTGCCGGGGCTGGAGTTACGTA
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                                                                                                                                                      ACAGCGAAAGCTATCGGTATGATGCGGCAGTCAGCGTATTATCAAAACCGGCACGCGGC
                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       Sequence 3, Application US/09817514A
Patent No. 6639129
GENERAL INFORMATION:
GENERAL INFORMATION:
APPLICANT: Enemel, David
APPLICANT: Rocheleau, Thomas
APPLICANT: Rocheleau, Thomas
TITLE OF INVENTION: DNA SEQUENCES FROM PHOTORHABDUS LUMINESCENS
TITLE OF INVENTION: DNA SEQUENCES FROM PHOTORHABDUS LUMINESCENS
CURRENT APPLICATION NUMBER: US/09/817,514A
CURRENT APPLICATION NUMBER: US 60/191806
PRIOR APPLICATION NUMBER: US 60/191806
PRIOR APPLICATION NUMBER: 2000-03-24
NUMBER OF SEQ ID NOS: 8
SOFTWARE: PATENTING DATE: 2000-03-24
SOFTWARE: PATENTING DATE: 2000-03-24
SOFTWARE: PATENTING DATE: 2000-03-24
SOFTWARE: PATENTING APPLICATION NUMBER OF SEQ ID NOS: 8
SEQ ID NO 3
LENGTH: 4431
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OKGANISM: Photorhabdus luminescens
PEATURE:
NAME/KEY: CDS
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17158 CGGTTACTCTGCTTGA 17173
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